IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

Bail Appl..No. 6366 of 2007()

ST NO.213/07 OF THE JFCM COURT-I, PALAKKAD.

PETITIONER/2ND ACCUSED

M.K.ABDUL RAHIMAN,S/O.KOCHUMOIDEEN,
POOTHAPARAMBIL HOUSE, SEMI MAHAL, PULLEPPADY,
COCHIN 18.

BY ADV. SRI.C.P.RAVIKUMAR

RESPONDENTS: COMPLAINANT

STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

BY SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16/10/2007 ALONG WITH B.A. NO. 6391/07, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. Nos.6366 & 6391 OF 2007

Dated this the 16th day of October, 2007

ORDER

The common petitioner in these two petitions faces indictment in two separate prosecutions both under Sec.138 of the Negotiable Instruments Act. Cognizance has already been taken. The petitioner has not entered appearance in both the cases. The cases are filed and numbered only in 2007. Though the petitioner has not been served, warrants of arrest have been issued by the learned Magistrate against the petitioner. The petitioners finds such warrants of arrested issued by the learned Magistrate chasing him.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. He is willing to appear before the learned Magistrate and seek regular bail. The petitioner apprehends that his application for regular bail

may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits

and expeditiously – on the date of surrender itself.

5. In the peculiar facts and circumstances of this case, there shall be a direction that the warrants of arrest issued by the learned Magistrate against the petitioner in these two cases shall not be executed till 29/10/07. On or before such day, the petitioner shall surrender and seek regular bail.

Sd/-

(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge